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SEP 20 2006

OFFICE OF PETITIONS

In re Patent of :
Soong et al. :
Application No. 10/065,988 : DECISION
Filed: December 6, 2002 : ON PETITION
Title of Invention: SYSTEM AND :
METHOD FOR DESIGN, DEVELOPMENT, :
AND DEPLOYMENT OF DISTRIBUTED :
APPLICATIONS THAT SHARE DATA :
FROM HETEROGENEOUS AND :
AUTONOMOUS SOURCES OVER THE WEB :

This is a decision on the Petition to Withdraw Holding of Abandonment, filed June 30, and August 17, 2006. The Request is properly treated as a petition under 37 CFR §1.181(a).

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed April 19, 2005. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been filed, this application became abandoned on July 20, 2005. A Notice of Abandonment was mailed April 20, 2006.

The April 23, 2006 petition

Applicants request that the holding of abandonment in this application be withdrawn because Applicants did not receive the Office action. Applicants provides that the reason that the Office action was not received could have been because Applicant had moved.

Decision on April 23, 2006 petition

It was initially noted that the correspondence address appearing on the petition was the same correspondence address appearing on the Application Data Sheet filed with the application on December 6, 2002.

Also, a review of Office records indicated that the non-final Office action was properly mailed to the correspondence address of record. Applicant was advised that absent any irregularities in the mail, correspondence is presumed to have been delivered to the correspondence address of record. A review of the file revealed no irregularity in the mailing.

Applicant was advised that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.
2. A copy of the file jacket or docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in Applicant's statement.

The Decision concluded by informing Applicant that Applicant's assertion, that the Office action was not received, was insufficient to justify withdrawing the holding of abandonment. Applicant was informed that he must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record

(or file jacket) where the non-received Notice would have been entered had it been received and docketed.

The instant Renewed petition

Applicant files the instant renewed petition and provides that Applicant moved their Office from Suite 203 to Suite 209, but remained in the same office building and street number. Applicant also provides that he requested a change of correspondence address. Applicant files a Change of Correspondence Address with the instant petitions.

A review of the Change of Correspondence Addresses filed with the petitions filed June 30, and August 17, 2006 reveals that the date of execution appearing thereon is April 3, 2006. It is also noted that no certificate of Mailing or Transmission was included with the Change of Correspondence Addresses.

Applicant is advised that the USPTO file is the official record of the papers filed in this application. A review of Office records reveals that no Change of Correspondence Addresses has been filed in this application. Applicant has failed to demonstrate the timely filing of a Change of Correspondence Addresses.

Accordingly, the petition is dismissed.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently \$750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement

that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).


Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


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